

To: Ajit Pai, FCC Chairman

Re: Docket RM-11831, Deletions and Modifications to 47 C.F.R. Part 97

Date: 12 April 2019

Dear Mr. Pai:

I oppose the proposal to delete Section 97.221(c) and modify Section 97.309(a)(4) for several reasons.

Namely:

- The Petitioner claims (in “I. Introduction, Item 2(i)”) that Section 97.113(a)(4) requires “the ability to identify and monitor the radio transmissions of any data signal using readily available over-the-air interception methods by third parties.” In fact, Section 97.113(a)(4) does not include the claimed requirement. The phrase “readily available over-the-air interception methods” is nowhere in the cited text. However, the phrase “messages encoded *for the purpose of obscuring their meaning*” (emphasis added) is included in the text of this section as a prohibited transmission. The portion of the phrase “for the purpose” implies intent, in the same way that “possession *with intent* to sell” as a greater drug crime than simple possession. The phrase “for the purpose of obscuring their meaning” is specifically relevant to the present matter. A data compression method used for certain digital modes that renders a message as something other than plain text does not exist for the purpose of obscuring meaning, but for efficient use of the RF spectrum. The fact that a particular radio transmission may be difficult for a particular listener to understand does not necessarily make the transmission illegal, particularly when the compression protocol generating that transmission is openly published, and can be understood through the application of technical expertise in scientific practices.
- The Petitioner claims (in “I. Introduction, Item 2(i)”) that Section 97.119(a) requires “the ability to identify and monitor the radio transmissions of any data signal using readily available over-the-air interception methods by third parties.” In fact, Section 97.119(a) does not include the claimed requirement. That subsection does require the clear and recognizable identification of the station making the transmission. The subsequent subsection defines the acceptable methods of station identification, but is not relevant to the Petitioner’s claim.

- The Petitioner claims (in “I. Introduction, Item 2(iii)”) the need for “assurances that the Amateur Radio Service will not be used to bypass commercial internet services or be used for commercial use as required by Part 97.1, 97.3(4), 97.113(a)(5).” Section 97.1 is irrelevant to this claim. Section 97.3(4) is a non-existent section. However, the Petitioner might actually intend to cite 97.3(a)(4), which does require that individual amateur operators communicate without pecuniary interest. Section 97.113(a)(5) prohibits “communications, on a regular basis, which could reasonably be furnished alternatively through other radio services.” Interestingly, this section deals with communications that could be furnished “through other radio services.” This phrase obviously does not refer to using Winlink, for example, instead of a commercial email account, because most commercial email accounts do not use radio services. “Other radio services” might logically include commercial radio (for news, entertainment, and public service announcements directed at the general public), the Private Land Mobile Radio Service (clearly defined by Part 90 as primarily for public safety, industrial, and business uses), and other licensed and unlicensed services. The petitioner has failed to delineate which “other radio services” might be bypassed by the use of a system such as Winlink.

- The Petitioner claims (in “I. Introduction, Item 2(iv)”): “There are questions regarding adequate vetting, by control operators of Message Forwarding Systems, of messages originating from the internet for transmission on the amateur bands, and likewise originating from an amateur radio operator for delivery to the internet, for content and sender identity, as required by Part 97.219(d)(1)(2).” It seems an inappropriate use of the FCC’s limited resources to implement a rule based upon a claim that “there are questions” rather than implementing a rule to solve an actual, documented problem. The Petitioner cites “Part 97.219(d)(1)(2),” a non-existent section. However, the Petitioner might actually intend to cite 97.219(d)(1) AND 97.219(d)(2). Section 97.219(d)(1) requires that the control operator of a message forwarding station to “authenticate the identity of the station from which it accepts communications on behalf of the system.” As an example, by the very design of the Winlink system, messages cannot be generated by an amateur radio operator from within the system without having a valid Winlink account. One cannot establish a Winlink account apart from already having a valid FCC license. Section 97.219(d)(2) requires control operators to accept responsibility for violations of Part 97 rules contained in messages that they retransmit. This subsection is already adequate for its stated purpose. If a violation is found, the control operator is subject to applicable enforcement,

similar to the responsibility of a control operator in any other aspect of the Amateur Radio Service.

- The Petitioner claims (in “II. Interference reduction – Proposal to Delete § 97.221(c),” Item 7) that Automatically Controlled Digital Stations,” (incorrectly referred to by the Petitioner as “Automatically Controlled Data Stations”), operating under Section 97.221(c), violate Section 97.101 because they have “no effective means to determine if the channel is occupied before transmitting.” This is an erroneous claim, particularly in the case of a Winlink Remote Message Server station. Such a station simply monitors a particular frequency in silence until the control operator of a message originating station initiates a connection request with the Automatically Controlled Digital Station. The control operator of the message originating station is responsible for assuring that the communication that he or she initiates does not cause interference in violation of Section 97.101. The existing rules are already adequate for their stated purpose.

In summary, I believe that the Petitioner’s proposal to delete Section 97.221(c) and modify Section 97.309(a)(4) of the Amateur Radio Service rules is unnecessary, and represents a solution in search of a problem. I urge the FCC to dismiss the petition.

Respectfully yours,

/s/Greg Butler, KW6GB